



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
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ATLANTA, GEORGIA 30303-8960

August 3, 2015

Dr. Jessica Beck-Stimpert  
National Marine Fisheries Service  
Southeast Regional Office  
National Oceanic and Atmospheric Administration  
263 13<sup>th</sup> Avenue South  
St. Petersburg, Florida 33701

**Subject: EPA NEPA Comments on NOAA Final Supplement to the Final Programmatic Environmental Impact Statement for the Marine Aquaculture Fishery Management Plan; Gulf of Mexico EEZ; CEQ No. 20150179**

Dear Dr. Beck-Stimpert:

Consistent with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (EPA) has reviewed the National Marine Fisheries Service's (NMFS) Final Supplement to the Final Programmatic Environmental Impact Statement (FSFPEIS) for the referenced Fishery Management Plan (FMP) for offshore marine aquaculture (Aquaculture FMP). The FSFPEIS was prepared in order to consider new baseline conditions in the Gulf of Mexico (GOM) and information related to the Deepwater Horizon (DWH) oil spill event. This document also provides additional analysis of management alternatives identified in the 2009 Aquaculture FMP in relation to potential changes in baseline conditions in the GOM.

The Aquaculture FMP established a regional NMFS permitting process in the Gulf for marine aquaculture operations through establishment of several management measures. These actions included measures to establish:

- 1) Aquaculture permit requirements, eligibility, and transferability;
- 2) Application requirements, operational requirements, and restrictions;
- 3) Duration of the permit;
- 4) Species allowed for aquaculture and included in the aquaculture fishery management unit;
- 5) Allowable marine aquaculture systems;
- 6) Marine aquaculture siting requirements and conditions;
- 7) Restricted access zones for marine aquaculture facilities;
- 8) Recordkeeping and reporting;
- 9) Biological reference points and status determination criteria.
- 10) Framework procedures

### **EPA's Regulatory Role / Permitting Coordination**

EPA's role for marine aquaculture operations in the Gulf EEZ is clearly defined. For these federal waters, EPA has statutory authority to administer NPDES permits and has determined that net pens constitute "concentrated aquatic animal production" facilities under the CWA and are thus subject to permit requirements. EPA has also determined that the Ocean Discharge Criteria of CWA § 403(c) applies, thus mandating an environmental effects review of discharges resulting from aquaculture projects. In addition, EPA has a role in registering and regulating pesticides that may be used at the facility and also designates (together with the COE) Ocean Dredged Material Disposal Sites (ODMDSs) in state or federal waters under the Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972.

EPA has participated in multiple NEPA reviews of NMFS actions related to offshore marine aquaculture operations in the GOM. EPA has also provided comments on the implementing regulations related to these operations and participated in a multi-agency workgroup that has been task with cross agency coordination on permitting future offshore marine aquaculture operations. EPA appreciates NMFS's participation and leadership in these coordination efforts.

### **EPA Comments**

EPA reviewed and provided comments on the DSFPEIS in a letter dated April 3, 2014. EPA made the following recommendations in our letter:

1. EPA recommended additional discussion be added to the FSFPEIS regarding permits that have been issued and the status of these operations in the GOM.
2. EPA requested that NMFS provide EPA with relevant data and information relating to baseline condition changes in the GOM (specifically studies generated by NMFS) that may affect our above referenced regulatory roles relating to the permitting of marine aquaculture operations.
3. EPA recommended the inclusion of a summary table of all the actions and any changes proposed under the FSFEIS.

EPA appreciates the inclusion of a dedicated section in the FSFPEIS (Appendix C) for responses to comments received on the DSFPEIS. EPA has reviewed NMFS's responses to our comments and we have no additional comments related to our recommendations.

EPA remains concerned that the level of information included in FSFPEIS may not appropriately account for future site-specific permit decisions. Page 10 of the FSFPEIS states that "The Aquaculture FMP/FPEIS would allow for up to 20 offshore aquaculture operations to be permitted in the Gulf with an estimated annual production of up to 64 million pounds." EPA understands that NMFS will not provide additional site-specific Environmental Assessments or EISs for each individual aquaculture facility. Therefore, EPA is concerned that the current FSFPEIS may not disclose and consider site-specific impacts from individual aquaculture operations, such as impacts to water quality, and how the cumulative impacts of the project together with any neighboring aquaculture systems or other offshore uses will be addressed. EPA provided similar comments regarding concerns related to additional site-specific NEPA on the 2008 PDEIS. EPA recommends NMFS utilize the established interagency working group

and commit to participate in a coordinated streamlined NEPA process that covers the site-specific impacts for individual projects for all agencies issuing permits.

Since issuance of the NPDES permit for these facilities is considered a federal action requiring compliance with NEPA, EPA will be responsible for developing site specific EAs or EISs to support our permit decisions. Since there is an established interagency working group for offshore marine aquaculture permitting, EPA recommends using this group to develop a streamlined NEPA process that covers the site-specific impacts for each individual project that could be used by all agencies issuing permits.

We appreciate the opportunity to review the FSFPEIS. Should you have questions regarding these comments, feel free to contact Dan Holliman of my staff at 404/562-9531 or [holliman.daniel@epa.gov](mailto:holliman.daniel@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Dan R.', with a long horizontal flourish extending to the right.

Christopher A. Militscher  
Chief, NEPA Program Office  
Resource Conservation and Restoration Division